

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:20-CR-121 SEP
)	
MARK ANTHONY DAVIS,)	
)	
Defendant.)	

SENTENCING MEMORANDUM

Defendant Mark Anthony Davis, through Assistant Federal Public Defender Kevin Gau, and pursuant to the parties' plea agreement, respectfully moves this Court to vary downward from the United States Sentencing Commission Guidelines recommendation applicable to his case (Doc. 106, PSR ¶ 117) **for a total sentence of 300 months.**

What follows is some of the information under 18 U.S.C. § 3553(a) which Mr. Davis asks the Court to consider supporting such a sentence:

This case is difficult for everyone involved. To say that Mark Davis is embarrassed, ashamed and remorseful is an understatement – he feels all of these things deeply. Despite the abuse in the instant case, an appropriate sentence can only be arrived at when the court considers Mark's background and history, some of which entails his own abuse, and is aware of his experiences that shaped who he is.

If there is one theme over the course of Mark's life, it would be the fact that he never felt accepted or valued. His life began with his mother traveling around the country

with Mark and his siblings as she followed the man she was with at the time, a musician. There was an extended period where they were in Texas and ultimately the family was abandoned in New York by the musician/boyfriend, and they returned to Iowa. Mark felt like an outsider even in his own family. He had few, if any, friends and was teased at school. He had a lot of anger. His mother sent him to live with his father, who had become mentally unwell after an accident. The period of time Mark spent with his father was not any better and he ended up back living with his mother.

Mark's first taste of institutional life came when his mother said she couldn't handle him anymore and he was sent away to a residential facility. This act solidified Mark's feelings of not being enough, or good enough. When Mark was in this residential facility, his mother remarried, which was also hard for Mark as he felt abandoned and that life for everyone else was going forward without any thought of him. It was in this residential facility where Mark received his first juvenile offense as he was very angry and acting out. Over time, Mark was charged with several juvenile offenses and was in and out of residential facilities, foster homes, and detention.

Because of his transient childhood and frequent foster care placements Mark was unable to make strong, positive peer connections as a boy and during adolescence. This bouncing around undoubtedly inhibited appropriate social-emotional skill development. Missing out on forming positive peer relationships during his childhood and adolescence led to a regressive feed-back loop predicting some of the later legal and mental health problems Mark experienced. Relating to this issue, while addressing the need for further

research into social and emotional learning, a 2018 Penn State/Robert Wood Johnson Foundation issue brief summarized:

Positive peer relationships make critical contributions to healthy social-emotional development. Children benefit from the social and emotional support that friends offer, and they learn important social skills by interacting with peers... Making and keeping friends, and dealing with peer group dynamics, requires both personal skills (e.g., understanding and managing one's feelings, controlling one's impulses) and interpersonal skills (e.g., understanding others, communicating effectively, negotiating and problem-solving). Interacting with peers helps to build these skills. *Unfortunately, children who struggle with delays or deficits in social-emotional skills are often rebuffed by peers, limiting their opportunities for positive peer interactions and pushing them further to the margins of the peer group with negative consequences for their well-being.*

Debra Pepler, Ph.D., et al., *With a Little Help from My Friends: The importance of Peer Relationships for Social-Emotional Development*, ROBERT WOOD JOHNSON FOUND. (Nov. 1, 2018) (emphasis added).¹ That Mark was consistently and dishearteningly rebuffed by his peers likely increased his anger and obstreperousness, leading to further marginalization.

Summarizing intervention research, Dr. Pepler and her Robert Wood study cohort authors observed that “social-emotional programming can boost the social-emotional skills of all children, *support individual children who have more intensive social needs and improve their peer relationships, and create peer contexts that are more tolerant and supportive of individual differences.* Pepler, *supra*, p. 1 (emphasis added). Unfortunately for Mark, because of the frequency of his placements, he never enjoyed the kind of social-

¹ At: <https://www.rwjf.org/en/insights/our-research/2018/11/with-a-little-help-from-my-friends--the-importance-of-peer-relationships-for-social-emotional-development.html#:~:text=Peer%20relationships%20provide%20a%20unique,exclusion%2C%20and%20deviant%20peer%20processes.>

emotional programming that could have short-circuited the spiraling marginalization he experienced.

Worse still, in some of his placements, Mark endured abuse. Abuse he had also endured at home and that made him want to run away from it all, which he did at times. On more than several occasions, Mark attempted to end his own life as he felt his life had no value. One of the institutions Mark resided in from 2003-2004 (age 16-17) was Clarinda Academy, a residential foster care placement. A *Des Moines Register* article details the recent closing of this facility:

For years, numerous serious allegations of excessive restraint, assault and sexual abuse – including allegations of forcible sodomy and rape by staff members – had been reported to police at Clarinda Academy, which houses youth ages 13 to 18 with significant behavioral and mental health needs.²

When Mark looks back over his life, there is a lot of sadness and struggle. He never felt accepted or that anyone ever truly wanted to help him. He was often caught in a cycle of feeling he wasn't good enough which would lead to bad behavior which would be punished. He made many cries for help over the years. The one place where he finally felt some peace was the Iowa Department of Corrections. It was there where Mark experienced a glimpse of what mental health care could look like and this gave him a small amount of hope. He was surrounded by mental health and other professionals who he felt truly wanted to help make him better. Mark's Iowa prison records show treatment by a team of professionals, including medical doctors, nurses, counselors, social workers

²Andrea May Sahouri, *Clarinda Academy Closing After Years of Alleged Abuse, Sexual Assault of Teens*, DES MOINES REG., Feb. 5, 2021, <https://www.desmoinesregister.com/story/news/2021/02/05/clarinda-academy-iowa-closing-after-years-alleged-abuse-sexual-assault-teens/4414216001/>.

and psychiatrists. It is one of the times in his life where he felt cared for and his life had value. He received substantial mental health treatment and responded well.

Since that time, Mark has obviously lacked the support he needs. True mental health care is not found in a county jail. Mark wants to get the help he needs and looks forward to hopefully finding structured, team-oriented mental health treatment wherever he serves time for these offenses he committed.

WHEREFORE, Mark Anthony Davis respectfully pleads for a 300-month sentence.

Respectfully submitted,

/s/ Kevin B. Gau

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ATTORNEY FOR THE DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on October 12, 2023, the foregoing memorandum was filed electronically with the Clerk of the Court through Court's electronic filing system and served thereby upon Matthew T. Drake, Assistant United States Attorney.

/s/ Kevin B. Gau

KEVIN B. GAU
Assistant Federal Public Defender